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PLEASE REPLY TO:
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May 1, 2020

Via ECF

The Honorable Christian F. Hummel
United States Magistrate Judge
United States District Court
James T. Foley Courthouse
Albany, N.Y. 12207

Re: Serenity Alpha LLC et. al. v. Northway Mining LLC et. al., Case No. 1:19-cv-00501

Dear Judge Hummel:

This firm represents defendants Northway Mining LLC, Michael Maranda, Michael Maranda LLC and Hudson Data Center Inc. in the above referenced matter.

As Your Honor is aware, on April 9, 2020 the plaintiffs electronically filed a "Second Amended Complaint" without leave of court. (ECF Doc. #37.) We objected by letter on April 17, 2020. (ECF Doc. #44.) At a telephone conference before Your Honor on April 20, attended by my colleague John F. Harwick, I understand that the plaintiffs' counsel indicated that he would be prepared to file a proper motion to amend "that day." Following that conference, on April 20, Your Honor issued an order stating that the plaintiff's motion to amend, "must be filed **on or before April 30, 2020**. Defendants response deadline is set for **5/8/2020**" (emphasis in original). (ECF Doc. #49.)

The plaintiffs did not file a motion to amend by April 30. Without explanation or any putative showing of good cause, they have filed a motion to amend today (ECF Doc. #50), unilaterally diminishing our response time by a day. Before opposing the motion on the merits (which we do) we respectfully submit that the motion is untimely and should be denied for that reason in itself.

This letter objecting to the untimeliness of the motion is without prejudice to the plaintiffs' right to file papers opposing the motion on the merits, if the Court elects to entertain the motion. Thank you.

Sincerely,

E. STEWART JONES HACKER MURPHY, LLP

A handwritten signature in black ink that reads "Benjamin F. Neidl".

Benjamin F. Neidl, Esq.